

1155 AVENUE OF THE AMERICAS, NEW YORK, NY 10036-2711

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>7/5/2022</u>

June 29, 2022

Stephen Ascher
Tel +1 212 891 1670
SAscher@jenner.com

VIA ECF

The Honorable Analisa Torres
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007

Re: ***Lara S. Trafelet v. Cipolla & Co., LLC, No. 22-cv-4888 (AT) (VF)***

Dear Judge Torres:

We write jointly on behalf of the parties in the above-referenced matter to respectfully request a revised briefing schedule, set forth further below, regarding Ms. Trafelet's pending Motion to Vacate Arbitration Award (ECF Nos. 7, 12) and Respondent's forthcoming cross-motion to confirm.

On June 10, 2022, Ms. Trafelet filed a Petition to Vacate a partial final arbitration award, together with a Motion to Vacate, a Memorandum of Law in Support of the Motion to Vacate, and the Declaration of Erik S. Groothuis with accompanying exhibits. (ECF No. 2.) Service of Ms. Trafelet's petition and motion, along with all supporting papers, was effective on June 17, 2022. (*See* Affidavit of Service, ECF No. 17.)

The award was partial because the parties had agreed to bifurcate Respondent's request to be awarded attorney's fees and expenses. (*See* ECF No. 14-1 at 36 ("The award is in full settlement of all claims and counterclaims presented in this arbitration with the exception of ... fees and expenses."); ECF No. 14-44 at ¶ 11 ("The issue of attorney's fees will be bifurcated and addressed after a ruling on the merits.")) As set forth in the attached letter, the parties will finish briefing issues relating to attorney's fees and costs on July 19, 2022 and fully expect that the Arbitrator will issue an award of fees and costs (the "Fee Award") within a few short weeks of July 19, consistent with prior decisions in the matter. (*See* June 6, 2022 Letter from Lisa A. Romeo, Director of ADR Services, to David N. Mair and Erik Groothuis, attached as Ex. A to this letter.)¹

¹ Ms. Trafelet filed and served the petition and motion to vacate by June 17, 2022, prior to the issuance of the Fee Award, to preserve her vacatur rights, in the event the March 22, 2022 partial award was found to be a final award within the meaning of the Federal Arbitration Act, triggering the three-month statutory deadline for serving a notice of motion to vacate under 9 U.S.C. § 12. *See, e.g., Zeiler v. Deutsch*, 500 F.3d 157, 169 (2d Cir. 2007) (arbitration awards are final and ripe

June 29, 2022

Page 2

To streamline the papers presented to the Court, and resolve all the issues in a single application, the parties have agreed to hold in abeyance further briefing on Ms. Trafelet's pending motion to vacate until the Arbitrator issues the Fee Award and Ms. Trafelet has an opportunity to amend her petition to address the Fee Award in addition to the merits award. Accordingly, the parties propose the following revision to the June 28, 2022 briefing schedule ordered by the Court for Ms. Trafelet's Motion to Vacate (ECF No. 16):

- Ms. Trafelet shall submit an amended petition to vacate and motion to vacate that addresses both the merits and fee awards, including a Local Civil Rule 56.1 statement in support of her motion, within 30 days of the issuance of the Fee Award;
- Respondent shall submit its opposition to Ms. Trafelet's motion to vacate and its cross-motion to confirm within 30 days of the filing of Ms. Trafelet's amended petition and motion to vacate;
- Ms. Trafelet shall submit a reply brief in support of her motion to vacate and an opposition to Respondent's cross-motion to confirm, within 21 days of the filing of Respondent's opposition and cross-motion; and
- Respondent shall submit a reply brief in support of its cross-motion to confirm within 21 days of the filing of Ms. Trafelet's opposition to the cross-motion.

The parties agree to inform the Court as soon as the Arbitrator issues the Fee Award and will provide, at that time, a schedule with dates certain for the parties' respective deadlines, in accordance with the schedule above. The parties have not previously sought an extension of their respective briefing deadlines.

GRANTED. The Clerk of Court is directed to terminate the motions pending at ECF Nos. 7, 12, and 20.

SO ORDERED.

Dated: July 5, 2022
New York, New York



ANALISA TORRES
United States District Judge